

SENATE BILL NO. 200

INTRODUCED BY WHEAT, MCNUTT

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE PROCEDURE FOR APPOINTMENT OF THE CHIEF WATER JUDGE; CHANGING THE TERM OF OFFICE OF THE CHIEF WATER JUDGE; ~~REQUIRING THAT THE OFFICE OF THE CHIEF WATER JUDGE BE LOCATED IN HELENA;~~ PROVIDING FOR A TRANSITION FROM THE CURRENT APPOINTMENT PROCESS TO THE NEW APPOINTMENT PROCESS; AMENDING SECTIONS 3-1-1001, 3-1-1010, 3-1-1011, 3-7-202, AND 3-7-221, ~~AND 3-7-222~~; MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATES DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-1-1001, MCA, is amended to read:

"3-1-1001. Creation, composition, and function of commission. (1) A judicial nomination commission for the state is created. Its function is to provide the governor with a list of candidates for appointment to fill any vacancy on the supreme court or any district court and to provide the ~~chief justice of the supreme court~~ governor with a list of candidates for appointment to fill any term or vacancy for the chief water judge pursuant to 3-7-221. The commission ~~shall~~ must be composed of seven members as follows:

(a) four lay members who are neither judges nor attorneys, active or retired, who reside in different geographical areas of the state; and each of whom is representative of a different industry, business, or profession, whether actively ~~se~~ engaged or retired, who ~~shall~~ must be appointed by the governor;

(b) two attorneys actively engaged in the practice of law, one from that part of the state that is composed of judicial districts 1 through 5, 9, 11, and 18 through 21 and one from that part of the state that is composed of judicial districts 6 through 8, 10, and 12 through 17, who ~~shall~~ must be appointed by the supreme court;

(c) one district judge elected by the district judges under an elective procedure initiated and conducted by the supreme court and certified to ~~such~~ election by the chief justice of the supreme court. The election ~~shall~~ be is considered an appointment for the purposes of this part.

(2) Appointments provided for in this section ~~shall~~ must be made within 30 days of the completion of the preceding terms."

1 **Section 2.** Section 3-1-1010, MCA, is amended to read:

2 **"3-1-1010. Lists submitted to governor and chief justice -- report on proceedings.** (1) If a supreme
3 court justice, a district judge, the workers' compensation judge, or the chief water judge gives notice of ~~his~~ the
4 judge's resignation to take effect on a specific date, the commission shall meet as soon as possible after the
5 justice's or judge's proposed resignation date has been verified by the chief justice of the supreme court. If no
6 notice is given, the commission shall meet as soon as possible after a vacancy occurs. The meeting must be
7 held in compliance with 3-1-1007. The commission shall submit to the governor ~~or chief justice~~, within the time
8 period established under 3-1-1007, a list of not less than three or more than five nominees for appointment to
9 the vacant position.

10 (2) Any list must be accompanied by a written report indicating the vote on each nominee, the content
11 of the application submitted by each nominee, letters and public comments received regarding the nominee, and
12 the commission's reasons for recommending each nominee for appointment. The report must give specific
13 reasons for recommending each nominee."
14

15 **Section 3.** Section 3-1-1011, MCA, is amended to read:

16 **"3-1-1011. Governor ~~or chief justice of the supreme court~~ to nominate from list.** The governor, ~~or~~
17 ~~the chief justice of the supreme court for the office described in 3-7-221, must~~ shall make a nomination from the
18 list of nominees submitted by the commission."
19

20 **Section 4.** Section 3-7-202, MCA, is amended to read:

21 **"3-7-202. Term of office -- water judges.** (1) Except as provided in subsection (2), ~~The term of office~~
22 ~~for water judges is from the date of initial appointment as provided in 3-7-201 to June 30, 1985. After June 30,~~
23 ~~1985, the term of office of a water judge is 4 years, subject to continuation of the water divisions by the~~
24 legislature.

25 (2) The term of office of the chief water judge is as provided in 3-7-221."
26

27 **Section 5.** Section 3-7-221, MCA, is amended to read:

28 **"3-7-221. Appointment of chief water judge -- term of office.** (1) ~~The chief justice of the Montana~~
29 ~~supreme court~~ governor shall appoint a chief water judge as provided in Title 3, chapter 1, part 10.

30 (2) To be eligible for the office of chief water judge, a person ~~shall~~ must have the qualifications for

1 district court or supreme court judges found in Article VII, section 9, of the Montana constitution.

2 (3) The term of office of the chief water judge is from ~~the date of initial appointment until June 30, 1985~~
3 July 1, 2005, until December 31, 2006. After ~~June 30, 1985~~ December 31, 2006, the term of office is 4 years,
4 subject to:

5 (a) continuation of the water divisions by the legislature; and

6 (b) confirmation by the senate in the legislative session following the appointment."

7
8 ~~Section 6. Section 3-7-222, MCA, is amended to read:~~

9 ~~"3-7-222. Salary -- office space. (1) The chief water judge is entitled to receive the same salary and~~
10 ~~expense allowance as provided for district judges in 3-5-211.~~

11 ~~(2) The office of the chief water judge must be at the location that the chief justice of the Montana~~
12 ~~supreme court shall designate in Helena. The Montana supreme court shall provide in its budget for the salary,~~
13 ~~expenses, and office and staff requirements of the chief water judge, which money may be appropriated by the~~
14 ~~legislature from the general fund."~~

15
16 NEW SECTION. Section 6. Transition. The chief water judge on [the effective date of this act] shall
17 retain the position of chief water judge until June 30, 2005, when the judge's term expires. After June 30, 2005,
18 the chief water judge on [the effective date of this act] is subject to the revised appointment procedures as
19 provided in 3-7-221.

20
21 NEW SECTION. Section 7. Codification instruction. [Section 7 6] is intended to be codified as an
22 integral part of Title 3, chapter 7, part 2, and the provisions of Title 3, chapter 7, part 2, apply to [section 7 6].

23
24 NEW SECTION. Section 8. Effective dates DATE. (1) ~~Except as provided in subsection (2), [this [THIS~~
25 ~~act] is effective on passage and approval.~~

26 ~~(2) [Section 6] is effective July 1, 2005.~~

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